

Notice of Allowability

Application No.

10/619,139

Examiner

Robert J. Sandy

Applicant(s)

TILLSTROM, DAVID M.

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the application filed 14 July 2003.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☒ The drawings filed on 14 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 7/14/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 06232004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Robert J. Sandy
Primary Examiner
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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with (Reg. No. 35,708) on June 23, 2004.

The application has been amended as follows:

Claims 8 through 13 have been canceled.

Claims 1, 2, 4 and 6 have been amended as follows:

In **claim 1, line 8**, the text "a helical shape;" has been changed to read as - - a helical shape, the first spring - -.

In **claim 1, line 11**, the text - - the first spring further - - has been inserted after "and".

In **claim 2, line 4**, the text "the loop, the first portion" has been changed to read as - - the loop of the second connection device, the first portion of the second connection device - -.

In **claim 2, line 5**, the text "the first portion, the second portion" has been changed to read as - - the first portion of the second connection device, the second portion of the second connection device - -.

In **claim 2, line 6**, the text "the first width, the second portion" has been changed to read as - - the first width of the second connection device, the second portion of the second connection device - -.

In **claim 2, line 8**, , the text "a helical shape;" has been changed to read as - - a helical shape, the second spring - -.

In **claim 2, line 11**, - - the second spring further - - has been inserted after "and".

In **claim 4, line 3**, " bent. " has been changed to - - bent, and - - .

In **claim 6, line 6**, " spring. " has been change to - - spring , and - - .

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Restriction/Election

Additionally, during the telephone conversation with Walter J. Tencza on June 23, 2004, an election was made without traverse to prosecute the invention of "An apparatus for connecting a strap to a pair of eyeglasses", claims 1-7. And in view of the Examiner's Amendment which places the claims 1-7 of the instant application in condition for allowance, authorization was also given to cancel the claims 8-13 without traverse and prejudice as directed to subject matter distinct and independent to the invention(s) of claims 1-7, to expedite the application toward issuance. The applicant reserves the right to file a divisional application under 35 U.S.C. 121 to pursue the invention(s) to claims 8-13.

The invention of Group I to claims 1-7, are drawn to "An apparatus ...", classified in class 24, subclass 3.3; and the invention of Group II to claims 8-13, drawn to "A method"..., classified in class 29, subclass 509.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process wherein the strap can be threaded through the opening prior to the spring being inserted onto the device such that the strap may be employed by pulling the strap into and through the spring at which the first portion of the device is bent by the spring when the strap is pull therethrough.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

As indicated above, authorization was also given to cancel the claims 8-13 without traverse and prejudice and to expedite the application toward issuance.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: the prior art of record fails to teach or suggest an apparatus for connecting a strap to a pair of eyeglasses, the strap connecting apparatus having the structural combination of at least first connection device including at least a helical shaped spring having a first portion with a first diameter being greater than a first width a first portion of the first connection device, so that the first portion of the first connection device can fit inside the first portion of the spring, and the first spring further having a second portion having a second diameter less than the first width of the first portion of the first connection device so that the first portion of the first connection device cannot fit inside the second portion of the spring.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the eyeglasses-strap connection devices disclosed by McClellan et al. (U. S. Patent No. 3,588,960), Lawrence (U. S. Patent No. 3,879,804), Sugarman (U. S. Patent No. 4,965,913), Welch et al. (U. S. Patent No. 5,092,668), May (U. S. Patent No. 5,600,873), Napier (U. S. Patent No. 5,465,466), and Kiapos (U. S. Patent No. 5,414,907) each fail to include connection device including a helical spring having a first portion with a first diameter being greater than a first width a first portion of the connection device, so that the first portion of the connection device can fit inside the first portion of the spring, and the first spring further having a second portion having a second diameter less than the first width of the first portion of the connection device so that the first portion of the connection device cannot fit inside the second portion of the spring.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 703-305-7413. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ROBERT J. SANDY
PRIMARY EXAMINER

Robert J. Sandy
Primary Examiner
Art Unit 3677